



City of Detroit

OFFICE OF THE AUDITOR GENERAL

**Audit of the
Detroit Police Department's
Abandoned Vehicle Auction
Process**

December 2003




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MEMORANDUM

DATE: February 8, 2005

TO: Honorable City Council
Mayor Kwame Kilpatrick

FROM: Joseph L. Harris
Auditor General 

RE: Audit of the Detroit Police Department's Abandoned Vehicle Auction Process

C: Chief Ella M. Bully-Cummings

Attached for your review is our fourth of eight reports on the audit of the Detroit Police Department's (DPD) police-authorized towing process. Reports on the towing process will be issued as follows:

1. Administration of the Police-Authorized Towing Process (issued September 30, 2004)
2. Compliance with the Impounded Vehicle Towing Process (issued November 23, 2004)
3. Compliance with the Abandoned Vehicle Towing Process (issued January 18, 2005)
4. Vehicle Auction Process (February 3, 2005)
5. Evidence Vehicles
6. Accounting and Reporting System
7. Towing Companies' Compliance with the Towing Policies and Contracts
8. Best Practices and Recommendation.

This audit was initiated by the Auditor General to determine the validity of allegations by police-authorized tow companies and by DPD personnel, and to determine whether there was compliance with State laws, City ordinances, DPD towing procedures, and towing contracts.

This report focuses on the processes performed by the DPD's Auction Detail to offer unredeemed abandoned vehicles for public sale. This report contains our findings and recommendations specific to these processes, and the DPD's response.

We recommend that the entire police-authorized towing process be reengineered. Our final report in this series will include our recommendations for consideration in



developing the reengineered policies and procedures. The recommendations included in this report are those that we believe should be immediately implemented to address serious problems until the reengineered process is developed.

Copies of all of the Office of the Auditor General's reports can be found on our web site at www.ci.detroit.mi.us/legislative/CharterAppointments/AuditorGeneral.

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EXECUTIVE SUMMARY

The Auditor General initiated this audit in response to allegations of improprieties committed by police-authorized towing companies and Detroit Police Department (DPD) personnel. The purpose of the audit was to determine whether City Ordinances, DPD's established towing policies and procedures, and the terms of the towing contracts are being complied with and whether the allegations of improprieties are valid.

The Michigan Vehicle Code provides for the disposition of unredeemed abandoned vehicles. Vehicles towed as abandoned and impounded vehicles that have been converted to abandoned vehicle status can be offered for public sale.

The Auction Detail is responsible for notifying the vehicle's registered owner that if the abandoned vehicle is not redeemed within 20 days the owner will lose ownership rights and the vehicle will be sold. The Auction Detail schedules auctions when the towing company delivers the completed TR-52 forms for mailing to the vehicle owners. Before the auction, the Auction Detail prepares a sales sheet that lists all of the vehicles to be sold and the accumulated towing and storage fees calculated from the date the vehicle was abandoned. At the time of the auction, the list of vehicles to be sold is updated – those vehicles that have been redeemed by the vehicle owner are removed, towing and storage fees are adjusted per the towing companies' records, and additional vehicles are added to the list to be sold.

We found that few vehicles are sold at auction resulting in minimal revenue to the City. Approximately 1.2% of the vehicles offered for auction are actually sold. Ownership of the remaining vehicles, over 30,000 in 2002, is assigned to the towing companies in lieu of the City paying the towing and storage fees. The long period of time to schedule vehicle auctions results in higher starting bids and fewer sales. Controls are such that vehicles damaged or missing parts while in the towing companies' possession will go undetected unless reported by a vehicle owner; towing and storage fees that are overstated to increase the starting bid price are not detected; the Bill of Sale is not always completed; and the change in vehicle ownership may not be appropriately recorded.

We believe that the DPD should reengineer the entire police-authorized towing process. Following is a summary of our specific findings and recommendations relative to the abandoned vehicle process:

Finding 1 – Abandoned Vehicle Auctions Yield Little City Revenues

We found that few vehicles are sold at auction and the proceeds to the City are insufficient to fund the costs of the abandoned vehicle officers and the Auction Detail. Unredeemed vehicles are not sold as promptly as they could be, which results in higher accumulated towing and storage fees at the time of the auction, and thus a higher starting bid. Towing companies occasionally overstate the towing and storage fees, which also drives up the starting bid. Auctions require cash payments, which discourages individuals as purchasers. Those familiar with the process know they can purchase unsold vehicles after the auction at a cheaper price.

We recommend that the DPD reduce the amount of accumulated towing and storage fees at the time of the auction by auctioning vehicles as promptly as allowed by State

law, and by preventing the overstatement of towing and storage fees. We recommend that the DPD utilize the scrap vehicle provisions of Michigan's law to dispose of junk vehicles without an auction. For the better quality vehicles, we recommend that the DPD gain title to the vehicles to sell following the auction for a higher price.

Finding 2 – Abandoned Vehicles Are Not Auctioned Promptly

We found that abandoned vehicle auctions are scheduled well after the time provided by the Michigan Vehicle Code, which results in the accumulation of additional storage fees. Additional storage fees are also accumulated when unredeemed impounded vehicles are not converted to abandoned status and processed for auction as quickly as they could be. Auction bidding starts at the accumulated towing and storage fees. The additional fees incurred due to the Auction Detail's inefficient process may result in vehicle prices that are too high to receive a bid.

We recommend that until the entire process is reengineered, that the DPD create a database to track the status of all impounded vehicles to ensure that unredeemed vehicles are converted to abandoned status and processed for auction as promptly as allowed under the State law. We recommend that the DPD establish a goal to auction abandoned vehicles as quickly as allowed, and assign the appropriate staffing level to achieve the goal.

Finding 3 – Towing Companies Are Not Held Accountable for Damage Occurring While Vehicle is in Their Custody

We found that the Auction Detail's process does not include a check of the vehicle's condition to verify that no additional damage is done or that parts are missing while the vehicle is in the towing companies' possession. Consequently, towing companies are not held accountable for additional damage that occurs. Parts can be stolen from vehicles, and the theft would not be detected unless the vehicle owner complains.

We recommend that the DPD update its auction process to include the comparison of the vehicle's condition at the time of auction to the vehicle's condition when it is towed; that towing companies be held accountable for the vehicle's condition while it is in their possession; and that those companies repeatedly incurring a high level of damage or missing parts from vehicles be suspended.

Finding 4 – Overstated Towing and Storage Fees Are Not Detected

At the time of auction, towing companies have the Auction Detail "correct" the accumulated towing and storage fees on some better-quality vehicles. It appears that the correction is made on those vehicles that are expected to sell at auction. Of the 34 vehicles reviewed with "corrected" towing and storage fees, the towing and storage fees were overstated by \$30,108. The City received proceeds of \$35,248 on these vehicles; it should have received \$65,356.

We recommend that the DPD revise its auction sales sheet to correctly calculate the accumulated towing and storage fees from the date the vehicle is towed, that the DPD recalculate to verify the amount of adjusted towing and storage fees presented by the towing companies before accepting the amount, and hold towing companies accountable for repeated submission of erroneous fees.

Finding 5 – Bill of Sale by Police Agency Not Always Properly Completed

We found that the Bill of Sale by Police Agency for Abandoned Vehicle is often incomplete. Some of the forms reviewed did not contain the purchaser's name; none of the forms contained the purchaser's address, some of the forms were not signed by the police agency representative, and none of the forms were signed by the purchaser. Failure to fully complete the Bill of Sale may result in there being no complete record of the change in vehicle ownership.

We recommend that the DPD periodically audit the Bills of Sale maintained by the Auction Unit to ensure that the forms are fully completed and the ownership transfer is fully documented.

Finding 6 - No Assurance That Change in Vehicle Ownership is Recorded

The DPD's auction process transferred vehicle ownership for over 30,000 vehicles in 2002. At auction, 375 vehicles were purchased and the ownership of over 30,000 unsold vehicles was transferred to the police-authorized towing companies. The DPD does not notify the Secretary of State's office of the pertinent information related to ownership transfers, such as date of transfer, VIN number, new owner's name and address, odometer reading, and the sales price. If the new owner does not register the transfer with the Secretary of State, the Secretary of State will be unaware that the ownership has changed and the State's record of vehicle ownership will be incomplete.

We recommend that the DPD create a process whereby the DPD provides the Secretary of State's office with ownership transfer information for the vehicles that it transfers ownership.

AUDIT PURPOSE, SCOPE, OBJECTIVES, AND METHODOLOGY

AUDIT PURPOSE:

The Auditor General initiated this audit in response to allegations of improprieties committed by police-authorized towers and Detroit Police Department (DPD) personnel involved in the police-authorized towing process.

AUDIT SCOPE:

The Office of the Auditor General (OAG) conducted an audit of the DPD's towing process to determine the DPD's and the towing companies' compliance with State laws, City ordinances, DPD established towing policies and procedures, and the towing contracts' terms. The scope of work covered by this report was limited to a review of the process of offering unredeemed abandoned vehicles for public sale. In addition, we evaluated the control environment surrounding the auction process.

Our audit was conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States, except that the OAG has not received an external peer review within the past three years.

AUDIT OBJECTIVES:

Specifically, we wanted to determine:

- Whether the DPD's auction process is in compliance with the Michigan Vehicle Code, and
- Whether the control environment surrounding the auction process is adequate.

AUDIT METHODOLOGY:

To accomplish our audit objectives, our audit included:

- Interviews with DPD management, police officers, towers, vehicle owners and others;
- Reviews of DPD towing procedures, City ordinances, and State laws for auctioning and disposing of abandoned vehicles;
- Reviews and analysis of Auction Detail sales sheets, form DPD 131, form TR-52, and law enforcement information network (LEIN) system records for a sample of auctioned abandoned vehicles;
- Reviews of auction and proceed records for calendar year 2002; and
- Observations of the auction process.

ABANDONED VEHICLE AUCTION PROCESS

Owners of vehicles towed as abandoned, and owners of unredeemed impounded vehicles that have been converted to abandoned vehicles are notified of their impending loss of ownership rights and the sale of their vehicle by the receipt of a form TR-52. At the time of our audit, the DPD was responsible for this mailing; legislation enacted in December 2004 will transfer the responsibility for owner notification to the Michigan Secretary of State. The form TR-52 notifies the last registered vehicle owner that if the vehicle is not redeemed within 20 days the vehicle may be sold and the vehicle owner and any secured party owner will lose their ownership rights. Michigan Secretary of State form TR-52 - Notification of Abandoned Vehicle, is mailed to the last registered vehicle owner on record with the Secretary of State's office. If the vehicle is not redeemed and the vehicle goes to auction, the TR-52 is also used to record the sale of the vehicle and may be used to transfer the vehicle's title.

The DPD obtains the TR-52 forms from the Secretary of State. As noted in our audit report on the abandoned vehicle towing process, there is no control over the forms - they are not numbered or accounted for, and the DPD makes the forms available to the towing companies. The towing companies assist the Auction Detail by completing the forms for the Auction Detail to mail, which conflicts with the segregation of duties principle. The towing companies provide the completed forms to the Auction Detail and the auctions are scheduled. As noted in our report on the abandoned vehicle towing process, the DPD does not have a mechanism in place to ensure that all vehicle owners, who should receive a TR-52 notification, do receive a TR-52. Auctions are scheduled at the rate of two auctions per day. The Auction Detail performs a cursory review of the TR-52 forms before mailing them, making sure there is an associated DPD 131- Abandoned Vehicle Report, which contains the vehicle condition report, and that a law enforcement information network (LEIN) system check has been performed for the vehicle.

Section 257.252g (1) of the Michigan Vehicle Code lays out the procedure for conducting a public sale:

A public sale for a vehicle which has been deemed abandoned under section 252a or 252c or removed under section 252d shall be conducted in the following manner:

- (a) It shall be under the control of the police agency or agent of the police agency.
- (b) It shall be open to the public and consist of open auction bidding or bidding by sealed bids. If sealed bids are received, the person submitting the bid shall receive a receipt for the bid from the police agency or agent of the police agency.
- (c) Except as provided by sections 252a(9) and 252d(7), it shall be held not less than 5 days after public notice of the sale has been published.
- (d) The public notice shall be published at least once in a newspaper having a general circulation within the county in which the vehicle was abandoned. The public notice shall give a description of the

vehicle for sale and shall state the time, date, and location of the sale.

The Auction Detail holds the auctions at the towing companies' storage yards. The towing companies place the vehicle auction advertisements in the Detroit Legal News. The auctions are open to the public, are open auction bidding, and payment must be made in cash.

On the day of the auction, Auction Detail personnel arrive at the towing company's storage yard with an internally generated list of vehicles to be auctioned. The Auction Detail and a representative of the towing company review the list, marking off those vehicles that have been redeemed by the vehicle owner, adding vehicles to be auctioned, and identifying those vehicles that have incorrect amounts listed for the accumulated towing and storage fees. At the DPD's auctions, the opening bid is the accumulated towing and storage fees.

Section 257.252g (2) of the Michigan Vehicle Code dictates how monies received from the public sale of vehicles are applied:

The money received from the public sale of the vehicle shall be applied in the following order of priority:

- a. Towing and storage charges.
- b. Expenses incurred by the police agency.
- c. To the secured party, if any, in the amount of the debt outstanding on the vehicle.
- d. Remainder to the owner. A reasonable attempt shall be made to mail the remainder to the registered owner. If delivery of the remainder cannot be accomplished, the remainder shall become the property of the unit of government that the police agency represents.

The Auction Detail's procedures for vehicle disposition include a process to return funds collected in excess of its accrued costs to the vehicle's secured party and / or owner. In November 2002, the cost to process a vehicle was set at \$320.20 per vehicle.

Section 257.252g (3) of the Michigan Vehicle Code prescribes what happens to the vehicle when there are no bidders:

If there are no bidders on the vehicle, the police agency may do one of the following:

- a. Turn the vehicle over to the towing firm to satisfy charges against the vehicle.
- b. Obtain title to the vehicle for the police agency or the unit of government the police agency represents, by doing the following:
 - i. Paying the towing and storage charges.
 - ii. Applying for title to the vehicle.
- c. Hold another public sale pursuant to subsection (1).

In practice, the DPD turns unsold vehicles over to the towing companies in satisfaction of charges against the vehicle.

The following chart shows, by towing company, the number of vehicle owners sent form TR-52, the number of vehicles redeemed, the number of vehicles auctioned, the number of vehicles sold, the number of vehicles turned over to the towing companies, and the proceeds generated for the City in calendar year 2002.

Tower	TR-52 Notifications Mailed	Vehicles Redeemed by Owner	Auctions Held	Vehicles Auctioned	Vehicles Sold	Vehicles Turned Over to Tower	City Proceeds
ABA Impounds, Inc.	483	112	12	371	7	364	\$ 9,670
AC Towing	279	23	6	256	9	247	1,800
Area Towing & Recovery	771	63	16	708	4	704	9,327
B and G Towing, Inc.	3,152	403	32	2,749	26	2,723	12,258
Boulevard & Trumbull	4,800	466	50	4,334	31	4,303	26,721
Bobby's Towing Service	131	9	3	122	1	121	0
Citywide Towing, Inc.	812	163	8	649	8	641	5,541
Detroit Auto Recovery, Inc.	1,809	258	26	1,551	24	1,527	29,419
E&G Towing Inc.	-	-	0	-	-	-	0
Elite Towing, Inc.	254	11	3	243	8	235	1,788
Executive Towing	837	89	11	748	8	740	10,892
Gene's Towing Inc.	1,163	237	17	926	12	914	8,942
Gilchrist Towing & Service	977	24	13	953	8	945	2,100
H & B Land, Inc.	282	18	5	264	7	257	8,593
Hemphill Towing, Inc.	740	98	13	642	14	628	3,964
J&C Recovery, Inc.	2,195	477	20	1,718	71	1,647	61,841
Javion & Sams	-	-	0	-	-	-	0
LJBS	313	10	4	303	5	298	2,797
Long & Sons	1,606	77	14	1,529	17	1,512	9,163
Michigan Auto Recovery	4,547	216	52	4,331	25	4,306	18,230
Murff & Sons, Inc.	88	5	3	83	1	82	110
Muscat Towing Services	951	177	23	774	23	751	12,526
Nationwide Towing	184	44	4	140	1	139	2,101
Reds Towing Service	1,688	38	15	1,650	2	1,648	214
7 D's Towing and Storage	607	150	15	457	23	434	31,865
Tri County Towing	2,087	166	30	1,921	17	1,904	3,185
Troy Auto-Bans, Inc.	2,395	89	18	2,306	7	2,299	2,715
V&F Collision Shop, Inc.	197	32	11	165	4	161	365
Washington Towing, Inc.	39	3	2	36	-	36	0
Wayne's Automotive Service	606	37	10	569	12	557	9,390
Total for Police-Authorized Towing Process	33,993	3,495	436	30,498	375	30,123	\$ 285,517
Parking Department	369	10	5	359	155	214	115,425
Total for Auction Detail	34,362	3,505	441	30,867	530	30,337	\$ 400,942

As shown in the preceding chart, some towers have a higher percentage of vehicles redeemed before auction. The reason for this is that some of the tow companies are not abandoned vehicle towers, and may tow newer vehicles that are more likely to be redeemed. The low number of owners redeeming their vehicles before auction at some companies could indicate that vehicle owners are not notified in a timely manner that their vehicle was recovered and impounded, or that the vehicles are junk vehicles that owners will not redeem.

FINDINGS AND RECOMMENDATIONS

1. Abandoned Vehicle Auctions Yield Little City Revenues

Very few vehicles are sold at auction and the proceeds to the DPD are insufficient to fund the costs of the abandoned vehicle officers and the Auction Detail. Excluding the Parking Department auctions, on average, less than one vehicle is sold per auction held, and nearly all vehicles are turned over to the towing companies to satisfy the towing and storage fees. Many vehicles are sold by the towing companies immediately following the auction for less than the opening bid.

Auction bids start at accumulated towing and storage fees, which are occasionally overstated by the towing company. Auctions require cash payments, which diminishes most citizens' ability to purchase the better-quality vehicles. We were told that mostly used car dealers show up for the auctions. We observed an auction at Michigan Auto Recovery Services, Inc. and it appeared that most of the bidders represented businesses.

There is no provision for the City to recoup any of its costs if the vehicle does not sell at auction. When a vehicle is not sold, the DPD turns the vehicle over to the towing company in satisfaction of the towing and storage fees. Towing companies often sell the vehicle immediately following the auction for amounts less than the opening bid. Some towing companies have agreements with used car dealers or with scrap dealers to sell the vehicles immediately following the auction.

The Auction Detail's Standard Operating Procedures list the following general rules for the auction:

- a. Bidders must be at least 18 years of age.
- b. Bidders are allowed in the auction area only.
- c. Vehicles are sold as is to the highest bidder without titles for cash only and payable to the cashier immediately following the auction.
- d. If there is a bid, the purchaser is given the Michigan Department of State Form TR-52 to transfer ownership. The Auction Detail Unit member at the conclusion of the auction completes the TR-52. The Tow Yard is immediately given towing and storage fees, which are deducted from the purchase price of the vehicle.
- e. If there is no bid on a vehicle, the vehicle is turned over to the Tow Yard for the towing and storage fees. The TR-52 is signed over to the Tow Yard to transfer ownership.

Section 257.252g (3) of the Michigan Vehicle Code prescribes what happens to the vehicle when there are no bidders:

If there are no bidders on the vehicle, the police agency may do one of the following:

- a. Turn the vehicle over to the towing firm to satisfy charges against the vehicle.

- b. Obtain title to the vehicle for the police agency or the unit of government the police agency represents, by doing the following:
 - i. Paying the towing and storage charges.
 - ii. Applying for title to the vehicle.
- c. Hold another public sale pursuant to subsection (1).

The lack of control over the auction process allows towing companies to run up towing and storage fees, or overstate towing and storage fees, which discourages bidders and reduces the City's revenues. Bidders need to have cash to purchase vehicles, which may present a hardship for individuals. Those familiar with the auction process know that they may be able to buy vehicles at reduced rates following the auction.

Few vehicles are sold at auction, and the City generates little income from the towing process. Only 1.2% or 375 vehicles out of the 30,498 vehicles auctioned in 2002 were sold at auction. The total proceeds to the City reported by the Auction Detail for police-authorized towing auctions were \$285,517. The remaining 30,123 vehicles that were not sold were turned over to the police-authorized towers to satisfy tow and storage fees.

Until a re-engineered police-authorized towing process is completed, we recommend that:

- a. The DPD undertake efforts to reduce the amount of accumulated towing and storage fees at the time of auction by ensuring vehicles are auctioned as promptly as allowed by State law, and by preventing towing companies from overstating accumulated fees.
- b. The DPD utilize the scrap vehicle provisions of the Michigan Vehicle Code that allow for the rapid disposition of vehicles that will not be purchased at auction.
- c. For the better-quality vehicles, the DPD consider gaining title to the vehicles, and selling them on its own to the companies that purchase used vehicles.

2. Abandoned Vehicles Are Not Auctioned Promptly

The DPD's Auction Detail lacks sufficient resources to process abandoned vehicles for auction in a timely manner; accumulated towing and storage fees at the time of auction are higher than they should be; and few vehicles are sold. There are three police officers in the Detail, who auctioned approximately 34,000 vehicles at 441 DPD auctions in 2002. In addition to auctioning vehicles at the police-authorized towing companies, the Detail is responsible for holding auctions for vehicles towed at the request of the Parking Department. In 2002, five Parking auctions were held at which 369 vehicles were auctioned and 155 vehicles were sold.

The Auction Unit schedules two auctions per day. Auctions are scheduled on a first-come first-serve basis. On February 27, 2003, the next auction date available was 48 days later, on April 16, 2003. Abandoned vehicles may be auctioned as soon as 20 days from the mailing date of the TR-52 forms provided the auction has been advertised five days prior to the auction date.

We reviewed a sample of unredeemed impounded vehicles that were converted to abandoned status so they could be auctioned. We found that the amount of time to convert the vehicles ranged from 10 to 91 days following the towing date, with the average being 39 days. Depending on whether the vehicle owner has been notified, an unredeemed impounded vehicle can be converted to abandoned status after 10 days or after 30 days. Converted impounded vehicles may also be auctioned as early as 20 days from the mailing of the TR-52 forms, provided the auction has been advertised.

Section 252a through 252g of the Michigan Vehicle Code assigns the police agency certain responsibilities within the abandoned vehicle process, including the notification of vehicle owners and control over the public sale of vehicles. In accordance with management principles, it is the DPD's responsibility to comply with the law and to meet the objectives set forth both efficiently and effectively. Thus, DPD has an obligation to control the process by knowing which vehicles are eligible to be auctioned and ensuring that they are, by not causing excess towing and storage fees, and by assisting the towing companies in clearing the unredeemed vehicles from their storage lots by auctioning vehicles promptly.

The size of the Auction Detail has been reduced from eight members to three, without a corresponding reduction in the number of abandoned vehicles to be auctioned. The DPD does not have the resources to visit the towing companies' storage lots to convert unredeemed impounded vehicles. The Auction Detail relies on the towing companies to provide the TR-52 notification forms for vehicles towed as abandoned, and the DPD 131 and TR-52 forms for the vehicles converted from impounded to abandoned status for the vehicles eligible to be auctioned.

The delay in processing abandoned vehicles and scheduling auctions results in higher than necessary storage fees. For the auction scheduled on February 27, 2003 additional storage fees of \$224 (28 days X \$8) will be incurred before the auction date. The length of time taken to convert impound vehicles to abandoned status results in the accumulation of higher storage fees as well. As bidding starts at the accumulated towing and storage fees, as a result of these delays, many auctioned vehicles may be priced too high to be sold.

Until a re-engineered police-authorized towing process is completed, we recommend that:

- a. The DPD create and maintain a database listing all impounded vehicles, the date the owner is notified, and the date the vehicle is redeemed; use the database to ensure that the unredeemed impounded vehicles are converted to abandoned status in the applicable 10 or 30 day period; that once converted to abandoned status, the vehicle owners are properly notified of their impending vehicle sale; and that the vehicles are auctioned as quickly as possible.
- b. The DPD establish a goal to auction towed abandoned vehicles 27 days after the date the vehicle has been taken into custody and converted impounded vehicles between 30 and 50 days of the vehicle being taken into custody as appropriate.

3. Towing Companies Are Not Held Accountable for Damage Occurring While Vehicle is in Their Custody

The DPD does not have a process to identify vehicles damaged while in the towing companies' possession or to hold police-authorized towing companies accountable for such damage.

At the time of the auction, the vehicle's current condition is not compared to the condition noted at the time the vehicle was towed to identify any additional damage or parts that may be missing from the vehicle that may have occurred while in the towing company's custody. In addition, as noted in our previous report on the abandoned vehicle towing process, the vehicle condition reports on form DPD 131 are frequently unreliable because they are not always completed by a police officer or they are not completed at the time the vehicle was taken into custody.

There is a risk that the vehicle may sustain additional damage while it is in the towing company's possession.

- Most towing companies indicated that they experience some theft of parts from their storage lots.
- Several towing companies noted that they keep an inventory of excess parts to replace missing radios, and other parts that the vehicle owner has complained are missing.

DPD management has a responsibility to establish an environment and controls that will provide reasonable assurance that parts and vehicle theft from towing companies' lots does not occur. The risk for parts to be stolen from towed vehicles is high when control procedures are not in place. Many municipalities have reported instances of parts and vehicles stolen by towing companies. Management should have policies and procedures to reasonably protect assets from loss, unauthorized use, misappropriation, fraud, and mismanagement.

The abandoned vehicle auction process does not include procedures to compare the current vehicle condition to the vehicle condition report in order to determine whether the vehicle is in the same condition as when it was towed. The Auction Detail does not have time to check vehicle condition reports with the vehicle to ensure the parts are still on the vehicle at auction.

Towing companies are not held accountable for additional damage to vehicles or for the theft of parts that occur while the vehicle is in its custody. Vehicles that are not intact are less likely to be sold at auction or if sold, will command a lower price.

Until a re-engineered police-authorized towing process is completed, we recommend that:

- a. The DPD update its auction procedures to require Auction Detail personnel to compare the vehicle's current condition with the vehicle condition noted on the DPD's copy of the DPD-131 prior to the vehicle being auctioned.
- b. Towing companies be held accountable for any missing parts. Towing companies found to have incurred a high level of damage and / or missing parts should be suspended.

4. Overstated Towing and Storage Fees Are Not Detected

Police-authorized towing companies are overstating towing and storage fees for some of the abandoned vehicles auctioned. As a result, towers are receiving more than their share of the sales proceeds from the auction of these vehicles and the City, any secured party, and the vehicle owner are receiving less.

The Auction Detail prepares an auction sales sheet on the date of the auction that lists the abandoned vehicle complaint number, vehicle year, make and model, vehicle identification number (VIN), LEIN reference number, and the amount of towing and storage fees incurred on the vehicles that are to be auctioned. At the towing company's storage lot, the sales sheet is adjusted - vehicles that have been redeemed are removed, some vehicles are added, and some towing and storage fees are adjusted. Towing companies provide the Auction Detail with their record of accumulated towing and storage fees for each vehicle auctioned. When a difference occurs, the Auction Detail adjusts its record of the towing and storage fees based on the police-authorized tower's input. The Auction Detail does not check these fees for accuracy.

We found that the Auction Detail's towing and storage rates as shown on its auction sales sheet are computed based on the date the vehicle is abandoned, not on the date the vehicle is towed. Therefore, towing and storage rates are understated for those unredeemed impounded vehicles that have been converted to abandoned vehicle status in order to be auctioned.

We reviewed the auction sales sheets and the vehicle towing records for a sample of 34 vehicles where the towing and storage fees were adjusted at the time of auction. These vehicles were offered for sale at 13 auctions held at eight towing companies in 2002 and early 2003. We noted the following differences in the towing and storage fees:

OAG Calculated Towing & Storage Fees	Towing and Storage Fees Per the Auction Detail's Sales Sheet	Variance Between OAG and Auction Detail	Towing and Storage Fees Per Towing Company	Variance Between OAG and Towing Company
\$21,406	\$13,805	(\$7,601)	\$51,514	\$30,108

- One-half of the sampled vehicles had incorrect towing and storage fees listed on the sales sheet because the time between the impound and abandoned date varied between 10 and 91 days. This accounted for \$5,504 of the variance between the OAG's and the Auction Detail's towing and storage fee amounts.
- Towers add vehicles to the auction list at the time of auction. As these vehicles are not on the sales sheet, the Auction Detail has no way to verify the towing and storage fees. Two vehicles in our sample were added to the list, accounting for \$1,574 of the Auction Detail's variance.
- Of the 34 vehicle's sampled, we did not agree with any of the towing company's submitted charges. Variances between the OAG's calculations and the towing company submissions ranged from \$8, storage for one day, to \$3,580. On average, towing companies overstated these fees by \$885 per vehicle.

The towing companies' overstated towing and storage fees reduced the amount of proceeds that the City received from the vehicle auctions as follows:

Sales Proceeds	Towing & Storage Fees Per Towing Company	Actual City Proceeds	Correct Towing & Storage Fees	Correct City Proceeds	Amount of Proceeds the City Was Shorted Due to Overstated Towing & Storage Fees
\$86,762	\$51,514	\$35,248	\$21,406	\$65,356	\$30,108

Towing companies are changing towing and storage fees on those vehicles that are thought to be saleable. We found that towing and storage fees were changed on 56 vehicles at the auctions we reviewed; 44 of the vehicles were sold. No other vehicles were sold at these auctions.

Bidding at DPD auctions starts at the amount of towing and storage fees owed. Towing and storage fees charged should be in accordance with the City Ordinance and in most cases should not exceed \$75 plus \$8 per day for storage in excess of three days.

One method of control is the use of relevant, reliable and timely communications within an entity's normal operations. Accordingly, information should be recorded and communicated to those within the entity who need it and in a form that enables them to carry out their responsibilities and duties efficiently. Ongoing monitoring, another method of control, should be ingrained into the entity's operations, and should include comparison and reconciliation procedures.

At the tower's storage yard, the Auction Detail has no means to follow up on police-authorized tower's restated storage and tow fees so they rely on mark-up sheets provided by the towing companies. The Auction Detail does not know how long the vehicle has been in the tower's possession; the list of the vehicles to be auctioned does not contain the tow date; the authorizing signature and date on the Abandoned Vehicle Report is often missing; and the Date Taken Into Custody on the TR-52 form is often blank. Because the towing and storage fees listed on the sales sheet is incorrect for some vehicles, Auction Detail personnel may not be suspicious of adjusted towing and storage fees that are not in accordance with its schedule.

Some police-authorized towers justify their overstatement of fees by stating that the DPD impound date is incorrect. Several towing companies complained to us about the costs they incur for administration including advertising costs for the abandoned vehicles and auctions. One police-authorized tower told us he is justified in cheating to cover his losses. He asked how he can be expected to give the City \$14,000 on a \$15,000 vehicle when he has hundreds of vehicles that don't sell at an auction. He said the Auction Detail knows towers "jack-up" storage fees at auctions and look the other way because they know towing companies should be compensated for their losses.

Due to the inflated towing and storage fees, it is likely that the City lost proceeds on sales of vehicles where the starting price was too high for bids to be offered. The average amount shorted the City in proceeds per our sample was \$885 per vehicle. If the towing and storage fees were not overstated for all 375 vehicles that were sold at

auction in 2002, the City would have received an additional \$331,875. That amount is 116% of the City's 2002 proceeds or \$285,517.

Until a re-engineered police-authorized towing process is completed, we recommend that:

- a. The DPD correct its auction sales sheet to show the correct amount for towing and storage fees for the converted impound vehicles, and include the date the vehicles were taken into custody to enable the verification of towing and storage fees alleged by the towing companies.
- b. The DPD scrutinize all towing and storage fees submitted by a police-authorized towing company in excess of the amounts calculated by the DPD. Any unallowable charges should be excluded from the fees.
- c. Repeated submission of inflated towing and storage fees result in the suspension of the towing company.

5. Bill of Sale by Police Agency Not Always Properly Completed

A complete record of the abandoned vehicle's sale or disposition is not maintained, as the Bill of Sale is not always fully completed by the Auction Detail following the auction.

The back of the TR-52 form contains the Bill of Sale By Police Agency for Abandoned Vehicle and states that it may be used to apply for a new title in the purchaser's name. There are spaces on the Bill of Sale to record the date the vehicle was sold or released; the name and address of the person - towing firm, secured party, police agency, or purchaser if sold at public auction – obtaining vehicle ownership; the purchase price; the odometer reading; the signature and printed name of the police agency representative; and the signature of the purchaser.

Nearly all of the TR-52s we reviewed were missing information:

- Most of the forms did not contain the date the vehicle was sold or released;
- Several of the forms did not contain the name of the vehicle purchaser and none of the forms contained the address of the purchaser;
- None of the forms contained the odometer reading;
- Most of the forms did not contain the signature of the police agency representative, and on some of the forms with a signature, the initials of the representative were included, but not the printed name; and
- None of the forms contained the signature of the purchaser.

Creating and maintaining reliable records is an important control activity. Such records should document the significant details of transactions, including that they were authorized by persons acting within their authority, and should provide evidence that transactions actually occurred. The Auction Detail's general rules of the auction state in part that:

- d. If there is a bid, the purchaser is given the Michigan Department of State form TR-52 to transfer ownership. The Auction Detail Unit member at the conclusion of the auction completes the TR-52. The Tow Yard is immediately given towing and storage fees, which are deducted from the purchase price of the vehicle.
- e. If there is no bid on a vehicle, the vehicle is turned over to the Tow Yard for the towing and storage fees. The TR-52 is signed over to the Tow Yard to transfer ownership.

Section 257.233a (1) of the Michigan's Vehicle Code states, in part, that:

... the transferor shall present to the transferee before delivery of the vehicle, written disclosure of odometer mileage by means of the certificate of title or a written statement signed by the transferor including the transferor's printed name, containing all of the following:

- (a) The odometer reading at the time of transfer not to include the tenths of a mile or kilometer.
- (b) The date of transfer.

- (c) The transferor's name and current address.
- (d) The transferee's name and current address.
- (e) The identity of the vehicle, including its make, model, body type, year, and vehicle identification number.
- (f) A reference to this section and comparable federal law, and a statement that failing to complete the title or form or providing false information may result in civil liability and civil or criminal penalties being imposed on the transferor.
- (g) One of the following:
 - (i) A statement by the transferor certifying that to the best of his or her knowledge the odometer reading reflects the actual mileage of the vehicle.
 - (ii) If the transferor knows that the odometer reading reflects the amount of mileage in excess of the designed mechanical odometer limit, a statement to that effect.
 - (iii) If the transferor knows that the odometer reading differs from the mileage and the difference is greater than that caused by odometer calibration error, a statement that the odometer reading does not reflect the actual mileage and should not be relied upon. This notice shall include a warning notice to alert the transferee that a discrepancy exists between the odometer and the actual mileage.
- (h) Space for the signature and printed name of the transferee, and the date of presentation to the transferee.

Furthermore, Section 257.233a (13) of the Michigan's Vehicle Code states:

- (13) An auction dealer or vehicle salvage pool operator shall establish and retain at his or her primary place of business in an order that is appropriate to business requirements and that permits systematic retrieval, for 5 years following the date of sale of each motor vehicle, the following records:
 - (a) The name and the most recent owner, other than the auction dealer or salvage pool operator.
 - (b) The name of the buyer.
 - (c) The vehicle identification number.
 - (d) The odometer reading, not including the tenths of a mile, on the date the auction dealer or salvage pool operator took possession of the motor vehicle.

The Auction Detail provided no reason why the Bill of Sale is not fully completed.

Without a complete record documenting who has purchased the vehicle, there is the risk that there will be no record of the vehicle ownership change. If the transfer is not registered with the Secretary of State's office by the vehicle purchaser, there will be no way to establish that the vehicle's ownership has changed.

Until a re-engineered police-authorized towing process is completed, we recommend that:

- a. The DPD require that the Auction Detail fully complete the Bill of Sale when a vehicle is auctioned, and that the DPD periodically audit the TR-52s for completeness.

6. No Assurance That The Change in Vehicle Ownership is Recorded

DPD's auction process does not include notification to the Michigan Secretary of State's office that the auctioned vehicle's ownership has changed.

Under Michigan law, the Secretary of State does not recognize that a vehicle ownership change has occurred until the transfer has been recorded with the Secretary of State. A major obstacle to holding vehicle owners accountable for abandoning their vehicles is that the vehicle owner listed in the Secretary of State's records was often not the current vehicle owner because the transfer of vehicle ownership had not been registered.

The DPD's auction process transferred vehicle ownership for over 30,000 vehicles in 2002. At auction, 375 vehicles were purchased and the ownership of over 30,000 unsold vehicles was transferred to the police-authorized towing companies. The Auction Detail's process requires that the form TR-52 be completed and distributed to the vehicle's new owner following the auction. The Auction Detail files its copy of the TR-52 without transmitting a copy to the Secretary of State's office to notify it of the transfer. As such, the Secretary of State is unaware that the vehicle ownership has changed and that the name associated with the vehicle title should be changed.

Because the DPD is not the vehicle's new owner, the DPD has no standing under Michigan's law to transfer the vehicle ownership in the Secretary of State's records. However, the DPD can contribute to the maintenance of the State's vehicle ownership record by notifying the Secretary of State's office of the pertinent information related to the ownership change – date of transfer, VIN number, new owner's name and address, odometer reading, and the sales price – so the Secretary of State is aware of the transaction.

The Michigan Vehicle Code sections covering public auctions and vehicle transfers require that the DPD cancel the entry in the LEIN system once the vehicle is disposed of. There is no provision requiring the DPD to inform the Secretary of State of the change in the vehicle's ownership.

At the time of this audit, Section 257.234 of the Michigan Vehicle Code put the onus for recording the transfer of the vehicle title on the used-vehicle purchaser, rather than the seller. A seller who properly sold his vehicle and signed over his title was not liable for any future damages or violation of law resulting from the ownership of the vehicle. Therefore, there was no incentive for the seller to ensure the transfer was properly recorded with the State.

New legislation, that will be effective October 1, 2005, will require that the seller must either accompany the purchaser to the Secretary of State's office to ensure the title is changed or retain records of the sale for 18 months to be free from future liability.

One function of internal control is to provide reasonable assurance that an organization's operations are effective and efficient. Mechanisms should be in place to recognize areas that adversely affect process results, such as the inability to properly identify vehicle owners; and to proactively change the process to address those areas. Management also has a responsibility to ensure that events are properly documented.

Although the DPD provides the new vehicle owner with a means to record the ownership transfer at the Secretary of State's office, there is no assurance that the ownership transfer is actually recorded.

The DPD sells or otherwise transfers ownership of over 30,000 abandoned vehicles annually. When transfers of ownership are not reported to the Secretary of State's Office by the seller or transferor, the new owners can "skip title," by not recording the title transfer. As a result, if one of these vehicles is later abandoned, the ownership of the vehicle is often difficult or impossible to determine, and the cycle can begin anew.

Until a re-engineered police-authorized towing process is completed, we recommend that:

- a. The DPD establish a process in conjunction with the Secretary of State's office whereby the change of ownership information is communicated to the Secretary of State to enable the update of the vehicle registration database.



DETROIT POLICE DEPARTMENT
CHIEF ELLA M. BULLY-CUMMINGS

ATTACHMENT A

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February 2, 2005

Joseph L. Harris
Auditor General City of Detroit
Coleman A. Young Municipal Center
2 Woodward Avenue, Room 208
Detroit, Michigan 48226

SUBJECT: AUDIT OF POLICE AUTHORIZED TOWING PROCESS

Dear Mr. Harris:

The following represents the Detroit Police Department's responses to the fourth report of findings and related recommendations in the December 2003 ***"Audit of the Detroit Police Department's Compliance with the Impounded Vehicle Towing Process"*** as prepared by the Office of the Auditor General.

Finding 1: ABANDONED VEHICLE AUCTIONS YIELD LITTLE CITY REVENUES.

Response to Finding: The Detroit Police Department disagrees with the finding that abandoned vehicle auctions yield little revenue to the City. As stated in the Auditor General's report, in calendar year 2002, the City received revenues of \$285,517 from the auction process. According to the report, few vehicles are sold at auctions and the proceeds to the Department are insufficient to fund the cost of the abandoned vehicle officers and the Auction Detail. However, in calendar year 2004, the City received \$540,620 from the auction process, representing a significant increase in revenues and vehicles sold, compared to the revenues received in 2002. Currently, the Detroit Police Department is researching ways to improve the auction process and further maximize potential revenues.

The auction process starts with bidding on vehicles based on towing and storage fees owed. According to our policy, all Department auctions are open to the public and are not limited to businessmen, used car dealers or private citizens. Cash payments are usually required to ease the burden of check clearances, authorizations, or collection efforts due to insufficient funds.



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According to Section 257.252g of the Michigan Vehicle Code, a police agency may obtain title to a vehicle, hold another auction or turn the vehicle over to the towing company to satisfy charges against the vehicle, if it is not sold. Although the Department has elected to utilize the latter of these options, other alternatives may be addressed in the forthcoming towing contract. It is not the Department's policy to discourage bidders at auctions or cause hardships to individuals participating in the auction process. However, it is the Department's policy to maintain control over its operations and ensure they are conducted in the most effective and efficient manner possible.

Response to Recommendations:

1a – The Department agrees with the recommendation to undertake efforts to reduce the amount of accumulated towing and storage fees at the time of auction. In order to accomplish this task, the Department will increase the number of auctions, possibly by cross-training personnel currently assigned to the Vehicle Management Unit.

1b – Utilizing the scrap vehicle provisions of the Michigan Vehicle Code would result in less vehicles being available for public auction. In order to maximize potential revenues, the Department wants all vehicles to be publicly auctioned. Additionally, in order to save the City the cost of disposing of these scrap vehicles, we recommend the Department not utilize the scrap vehicle provisions of the Michigan Vehicle Code.

1c – The Department disagrees with the recommendation that the Department gain title and sell certain abandoned vehicles on their own. The Department is not a registered, licensed, used or second-hand vehicle dealer. Additionally, the Department would be required to pay the tower for all towing and storage fees before obtaining title to any vehicle. Given the constraints of the current budget, this would be an additional financial burden.



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Finding 2: ABANDONED VEHICLES ARE NOT AUCTIONED PROMPTLY.

Response to Finding: The Department agrees that the Auction Detail lacks sufficient resources to process all abandoned vehicles in a timely manner. Additional personnel would be ideal since the Auction Detail has been reduced from 8 members to 3. However, given the current budget constraints, this may not be feasible. The Department will review the overall objective to auction vehicles promptly and will consider possibly redirecting trained personnel to assist in the auction process.

Response to Recommendations:

2a – The Department disagrees with the recommendation to create and maintain an abandoned vehicle database at this time. Currently, the CRISNET/CORE system tracks all impounded vehicles. Additionally, the Request for Proposal for a new towing contract stipulates that the contractor will develop and maintain, at their expense, a database on all vehicles towed and impounded.

2b – The Department disagrees with the recommendation to establish a goal to auction abandoned vehicles 27 days after they have been taken into custody or converted. Given the multiple variables of the abandoned vehicle process, the Department's goal is to auction abandoned vehicles as quickly as possible without the placement of a firm deadline.

Finding 3: TOWING COMPANIES ARE NOT HELD ACCOUNTABLE FOR DAMAGE OCCURRING WHILE VEHICLE IS IN THEIR CUSTODY.

Response to Finding: The Department disagrees that towing companies are not held accountable for damage occurring to vehicles in their custody. Exhibit A, subsection 2, item 13, of the current towing contract states, "the contractor shall be responsible for damage and theft to any vehicle and the parts, accessories and equipment attached, installed or affixed thereto, or any contents in said vehicle in its custody and to satisfy complaints for provable damages and losses."



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The Department agrees that it does not currently have a process to identify vehicles that are damaged while in the towing companies' possession. However, as stated in the current towing contract, it is the contractors' responsibility to safeguard property while in their control.

Response to Recommendations:

3a – The Department will require members conducting auctions to ensure the DPD 131 reflects all vehicle damage at the time of auction. The Resource Management Division will conduct periodic inspections of the DPD 131 retained by the Auction Detail to ensure compliance.

3b – The Department agrees with the recommendation that tow companies be held accountable for missing parts. As stated earlier, Section 7, subsection 7.05, of the current towing contract, holds the contractor accountable for damage or missing parts and contractors can be suspended or terminated for excessive claims.

Finding 4: OVERSTATED TOWING AND STORAGE FEES ARE NOT DETECTED.

Response to Finding: The Department agrees in part that overstated towing and storage fees were not detected in every instance. Generally, Auction Detail personnel accepted the towers calculations of storage fees and added them to the auction sale sheets. Currently, the Auction Detail is required to review all questionable storage fee charges, prior to the auction, before making the appropriate adjustments.

The towing and storage rates on the Auction Detail's sale sheets are computerized based on the date the vehicle is entered into the computer as abandoned, not on the date the vehicle is towed. However, many vehicles are not classified as abandoned at the time they are towed. Many vehicles become abandoned after they are towed. Therefore the calculation of the computer varies from the calculations of the tower. Members of the Auction Detail have been instructed to review all questionable storage or towing fee charges prior to auction.

Although the report indicates excessive abuse, the Department maintains that towing and storage fees should be in accordance with the



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City Ordinance. The Department is not aware of any specific tower that has inflated towing or storage fees to defraud the City.

Response to Recommendation:

4a – As stated previously, the Department will review the towing and storage fees on the auction sheet prior to sale, based on the date the vehicle was taken into custody.

4b – The Auction Detail will scrutinize all towing and storage fees submitted by towing companies for excess charges. Vehicles with a significant difference in the stated towing and storage fees will be pulled from the auction and the fees will be closely examined by Auction Detail personnel.

4c. – The current towing contract allows the Department to suspend or terminate any towing company found to be intentionally inflating towing and storage fees. Towing companies found to be in violation will be suspended or terminated.

Finding 5: THE BILL OF SALE BY POLICE AGENCY IS NOT ALWAYS PROPERLY COMPLETED.

Response to Finding: The Department agrees, that at times, not all of the vehicle information was recorded on the Bill of Sale by the Auction Detail. However, the current Auction Detail personnel have been instructed to properly complete the Bill of Sale.

Response to Recommendation:

5a – The Department's auction procedures require that all forms pertaining to the auction process be fully and accurately completed by Auction Detail personnel. The supervisor assigned to the Auction Detail will conduct monthly audits of the TR-52's for completeness.

Finding 6: NO ASSURANCE THAT THE CHANGE IN VEHICLE OWNERSHIP IS REPORTED.

Response to Finding: The Department agrees that there is no assurance that the change in vehicle ownership is reported with the



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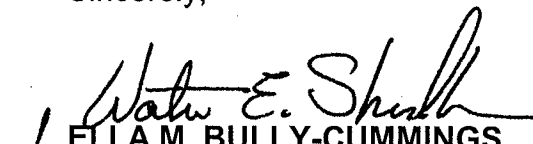
Secretary of State. Current State laws do not require the seller to report and record the transfer of ownership. The transfer of ownership rests solely with the buyer.

Response to Recommendation:

6a – The Department disagrees with the recommendation to establish a change of ownership process with the Secretary of State. However, the Department will comply if these requirements are changed by the Secretary of State. At this time, there is no legal requirement to establish this process.

Should you have any questions or concerns regarding this matter, please feel free to contact me at 596-1800, Monday through Friday, 9:00 a.m. to 5:00 p.m.

Sincerely,


ELLA M. BULLY-CUMMINGS
for Chief of Police

EMB-C:ma